

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #3	CCRB Case #: 201804513	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/05/2018 1:30 PM	Location of Incident: § 87(2)(b)	Precinct: 52	18 Mo. SOL 12/5/2019	EO SOL 12/5/2019	
Date/Time CV Reported Wed, 06/06/2018 6:47 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/06/2018 6:47 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Brian Mahon	26892	955116	052 PCT
3. SGT Charles Cavallaro	4758	938197	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Gladis Cardenas	04338	960323	052 PCT
2. POM Yordani Capellan	04335	960321	052 PCT
3. SGT William Paterno	03583	946096	052 PCT
4. POM Jorge Monge	06417	955212	NARCBMN

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Mahon	Abuse: Police Officer Brian Mahon entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.SGT Charles Cavallaro	Abuse: Sergeant Charles Cavallaro threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.POM Brian Mahon	Abuse: Police Officer Brian Mahon detained § 87(2)(b)	§ 87(2)(b)
D.POM Brian Mahon	Abuse: Police Officer Brian Mahon frisked § 87(2)(b)	§ 87(2)(b)
E.POM Brian Mahon	Abuse: Police Officer Brian Mahon searched § 87(2)(b)	§ 87(2)(b)
F.SGT Charles Cavallaro	Abuse: Sergeant Charles Cavallaro entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
G.SGT Charles Cavallaro	Abuse: Sergeant Charles Cavallaro searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
H. Officers	Abuse: Officers entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
I. Officers	Abuse: Officers searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On June 6, 2018, § 87(2)(b) filed this complaint online from the CCRB's website.

On June 5, 2018, at approximately 1:30 p.m., § 87(2)(b) was inside his mother, § 87(2)(b)'s, residence located at the basement (Apt. BN) of § 87(2)(b) in the Bronx, when Sgt. Charles Cavallaro and PO Brian Mahon, of the 52<sup>nd</sup> Precinct, knocked on the door. § 87(2)(b) answered the door and PO Mahon placed his foot against the door preventing it from closing (**Allegation A: Abuse of Authority, § 87(2)(g)**). The officers were looking for § 87(2)(b) and asked if she was home. § 87(2)(b) said she was not and refused to allow the officers to enter the apartment and in response, Sgt. Cavallaro told him that if he was lying then he could be held for obstruction of justice (**Allegation B: Abuse of Authority, § 87(2)(g)**). PO Mahon removed § 87(2)(b) from the residence, handcuffed him, frisked him, and searched him (**Allegation C: Abuse of Authority, § 87(2)(g)**; **Allegation D: Abuse of Authority, § 87(2)(g)**; **Allegation E: Abuse of Authority, § 87(2)(g)**).

Sgt. Cavallaro and unidentified officers entered and searched § 87(2)(b)'s residence (**Allegation F: Abuse of Authority, § 87(2)(g)**; **Allegation G: Abuse of Authority, § 87(2)(g)**; **Allegation H: Abuse of Authority, § 87(2)(g)**; **Allegation I: Abuse of Authority, § 87(2)(g)**).

At some point, § 87(2)(b) appeared on the scene and she was placed under arrest and charged with § 87(2)(b) stemming from a report earlier in the day.

§ 87(4-b), § 87(2)(g)

There is no video footage depicting this incident.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Brian Mahon entered § 87(2)(b) in the Bronx.**

**Allegation (F) Abuse of Authority: Sergeant Charles Cavallaro entered § 87(2)(b) in the Bronx.**

**Allegation (G) Abuse of Authority: Sergeant Charles Cavallaro searched § 87(2)(b) in the Bronx.**

**Allegation (H) Abuse of Authority: Officers entered § 87(2)(b) in the Bronx.**

**Allegation (I) Abuse of Authority: Officers searched § 87(2)(b) in the Bronx.**

In his CCRB statement, § 87(2)(b) stated that during the incident he was eating lunch at his residence, located at § 87(2)(b) in the Bronx, when his mother's home aide, § 87(2)(b) alerted him that the superintendent was at the door (Board Review 01). § 87(2)(b) lives with his mother § 87(2)(b) brother, and sister. § 87(2)(b) was not aware of anyone else being present in the residence aside from him and § 87(2)(b) opened the door halfway and saw Sgt. Cavallaro and PO Mahon, but not the superintendent. The officers asked § 87(2)(b) who he was, what he was doing there, and asked about § 87(2)(b)'s whereabouts. § 87(2)(b)

§ 87(2)(b) informed them that § 87(2)(b) was his mother and he did not know where she was. The officers informed him this was pertaining to a police investigation and they asked to come inside. § 87(2)(b) refused to let the officers inside, said that he did not want to speak with them, and that § 87(2)(b) was not present. In response, PO Mahon placed his foot between the door and door jamb, preventing the door from closing. § 87(2)(b) felt as if he could not close the door without slamming the door against PO Mahon's foot. § 87(2)(b) eventually let go of the door and walked to the bedroom. PO Mahon's foot kept the door open. At some point, § 87(2)(b) returned to the door and PO Mahon pulled him out of the apartment and placed him in handcuffs. At some point, Sgt. Cavallaro mentioned that § 87(2)(b) had a history of being mentally unstable. During his CCRB interview, § 87(2)(b) stated that § 87(2)(b) had a history of mental illness.

In her unverified phone statement, § 87(2)(b) stated that during the incident she was § 87(2)(b) while § 87(2)(b) and a friend, § 87(2)(b) were present (Board Review 03). § 87(2)(b) stated that § 87(2)(b) did not live at the residence and that he occasionally visits. A Spanish-speaking officer asked § 87(2)(b) to enter and search the residence, but § 87(2)(b) told this officer that she only worked there and could not give him permission to do so. § 87(2)(b) also told the officer that § 87(2)(b) had left the location earlier that day and was not present. At some point, the Spanish-speaking officer entered the residence.

In his unverified phone statement, § 87(2)(b) stated he was asleep during the incident, but he heard arguing outside the room (Board Review 02). Officers entered the room. § 87(2)(b) was in, searched through drawers, and handcuffed § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) did not respond to further contact attempts by the CCRB.

The investigation identified § 87(2)(b) as a possible witness to the incident that occurred at 3127 Hull Avenue, but he was uncooperative with providing a statement during the investigation.

On June 5, 2018, Sgt. Paterno, PO Mahon, PO Cardenas, Sgt. Paterno and various officers responded to a coffee shop located at 3127 Hull Avenue, in the Bronx, in response to a radio run of a possible female with a firearm (Board Review 04-07). Sgt. Cavallaro did not recall the gender of the suspect, but he acknowledged responding to a gun run (Board Review 06). Sgt. Paterno and PO Mahon stated that the radio run mentioned that there was a male and a female (Board Review 05 and 07).

At the coffee shop, Sgt. Paterno, Sgt. Cavallaro, PO Mahon, and PO Cardenas spoke with several civilians who corroborated that a female pulled out a firearm at the location. PO Cardenas stated that she spoke with the complainant/victim of the 911 call, who she identified as § 87(2)(b) (Board Review 04). PO Cardenas stated that § 87(2)(b) the owner of the restaurant, stated that a customer was upset, took out a gun, and menaced them through the window. § 87(2)(b) informed PO Cardenas that that the customer was a "regular," but § 87(2)(b) did not know the customer's name. § 87(2)(b) knew where the customer lived because they delivered to her in the past and he told PO Cardenas that the customer lived in the red building around the corner.

PO Mahon spoke with the 911 complainant, a Hispanic male employee, who stated that a female pointed a gun at him (Board Review 07). The male employee recognized § 87(2)(b) and he said that she was crazy. A female employee provided a consistent account. Both employees provided § 87(2)(b)'s name, but PO Mahon did not recall her name at the time of his interview. Both employees also provided § 87(2)(b)'s physical description, clothing description, and her address. Neither employee said that § 87(2)(b) was with anyone during the incident.

In his CCRB statement, Sgt. Paterno stated that he spoke with the 911 complainant/victim, a female employee, who stated that a light-skinned black female or dark-skinned Hispanic female menaced her with a gun (Board Review 05). The female employee said that the perpetrator was a "Hispanic lady that lived around the corner." The other employees at the restaurant were familiar with the male and the female as well because they had made deliveries to the female's residence, § 87(2)(b) in the past. The female employee specified that the female lived in the basement apartment. Sgt. Paterno was not provided the female or male's names.

In his CCRB interview, Sgt. Cavallaro stated that the 911 complainant told him that that she saw a female with a gun who said something to the effect of, "I'm going to shoot you" (Board Review 06). Sgt. Cavallaro interviewed several people in the café and they all stated that they knew where the female suspect lived. Sgt. Cavallaro recalled that they said she lived in a basement apartment. Sgt. Cavallaro did not recall if the witnesses provided § 87(2)(b)'s name, but database searches were conducted to confirm whether the female lived at the address, but Sgt. Cavallaro did not recall who did the search.

Sgt. Paterno, Sgt. Cavallaro, PO Mahon, and PO Cardenas reviewed surveillance footage from 3127 Hull Avenue capturing the crime. Sgt. Paterno and PO Cardenas saw a woman pulling a dark object out of her bag (Board Review 05 and 06). Sgt. Paterno described the size of the object similar to a small handgun, but he was not certain if it was a gun. Sgt. Paterno stated that there was a male standing next to § 87(2)(b). PO Mahon stated that he saw a woman standing outside of the establishment alone, taking out a small firearm, and pointing it towards the person by the counter (Board Review 07). Sgt. Cavallaro saw a female holding what appeared to be a gun while tapping on the glass (Board Review 06).

In his CCRB statement, Sgt. Paterno stated that he and PO Mahon canvassed the area together to see if they could find the male and female suspects because they had committed a crime (Board Review 05). Sgt. Paterno believed that the male was "acting in concert." Sgt. Paterno went to the rear of § 87(2)(b) to see if the male and female would return to their residence and he believed that there could have been people inside the apartment because he received information that they lived there. Sgt. Paterno did not see anyone entering or leaving the apartment. At some point, Sgt. Paterno was informed by officers that § 87(2)(b) was the renter or owner of the apartment and Sgt. Cavallaro informed him that § 87(2)(b) gave them consent to go inside the apartment. Sgt. Paterno followed Sgt. Cavallaro into § 87(2)(b)'s apartment to look for the perpetrators because he assumed that "something" was discovered while he was at the rear of the apartment. Sgt. Paterno stated that he and Sgt. Cavallaro found § 87(2)(b) on the bed inside the location.

Sgt. Cavallaro and PO Mahon provided generally consistent accounts regarding going to § 87(2)(b)'s address together in an attempt to find § 87(2)(b) and speaking with § 87(2)(b)'s neighbors who lived next door. § 87(2)(b)'s neighbors stated that they had ongoing issues with § 87(2)(b) and that she had mental health issues. The neighbors did not say whether they knew if § 87(2)(b) was inside the apartment. PO Mahon stated that the neighbor informed them that § 87(2)(b) lived next door with two young children and an elderly mental-health aide (Board Review 07). Sgt. Cavallaro and PO Mahon identified § 87(2)(b) as § 87(2)(b) once they spoke to § 87(2)(b) and § 87(2)(b).

Sgt. Cavallaro did not recall if there were any noises emanating from inside the apartment, but PO Mahon stated that he heard multiple voices (Board Review 06). Sgt. Cavallaro and PO Mahon did not know if § 87(2)(b) was inside the apartment at this point. Eventually, § 87(2)(b) opened the door and he identified himself as § 87(2)(b)'s son. Sgt. Cavallaro denied seeing anyone else inside the apartment at this point. Sgt. Cavallaro explained why they were there and asked § 87(2)(b) if his mother or if anyone else was inside the residence. In response, § 87(2)(b) said that he was alone. Both Sgt. Cavallaro and PO Mahon stated that § 87(2)(b) denied living at the location and he said that § 87(2)(b) was not present. Sgt. Cavallaro stated that § 87(2)(b) came to the door at some point while he was speaking with § 87(2)(b) and when Sgt. Cavallaro confronted § 87(2)(b) as to why he lied, § 87(2)(b) said that it was only him and § 87(2)(b) present. § 87(2)(b) shook her head which Sgt. Cavallaro interpreted as there being additional people inside. § 87(2)(b) looked as if she was in distress because she looked uncomfortable and was shaking her head. Sgt. Cavallaro did not recall what § 87(2)(b) said or if she spoke English. A Spanish-speaking officer spoke with § 87(2)(b) and the officer told Sgt. Cavallaro that there was someone else inside the apartment, § 87(2)(b) did not live at the apartment, § 87(2)(b) was not present, and § 87(2)(b) did not have any problems with the officers going inside to make sure that § 87(2)(b) was not there. Sgt. Cavallaro did not know if § 87(2)(b) came home and dropped the gun off and left. Sgt. Cavallaro stated that the gun may be owned by someone who was hiding inside the home. At this point, Sgt. Cavallaro decided that for his own safety, the safety of everyone living in the area, and the safety of anyone in the apartment, they needed to ensure that § 87(2)(b) was not inside with a gun and that no one was in danger. Sgt. Cavallaro believed that either § 87(2)(b) was inside the apartment or she had dropped off the gun given that she lived at the location. Sgt. Cavallaro also believed that § 87(2)(b) lied about there being no one else inside the residence because he was so adamant about not allowing the officers into the apartment. Sgt. Cavallaro entered the residence and conducted a search for people inside. Sgt. Cavallaro found § 87(2)(b) on a bed inside one of the bedrooms.

In his CCRB statement, PO Mahon stated that when § 87(2)(b) opened the door, he saw § 87(2)(b) standing behind § 87(2)(b) (Board Review 07). PO Mahon heard noises in the background, but he could not tell how many people were inside. PO Mahon heard footsteps and sounds consistent with someone picking something up and then putting it down, but he did not hear any voices at this point. At some point, an officer asked if § 87(2)(b) could contact his mother and he agreed to do so. § 87(2)(b) subsequently walked away from the door and PO Mahon kept the door opened with his foot because of the nature of the call (a gun run), a “strong possibility” of an emotionally disturbed woman with a firearm, and the possibility that there were children inside the apartment. PO Mahon believed that § 87(2)(b) was inside at the time because she lived at the location, he heard movements inside the apartment, and § 87(2)(b) was evasive

by walking away when he agreed to call § 87(2)(b) PO Mahon stated that he and Sgt. Cavallaro asked § 87(2)(b) if there was anyone inside the apartment, but there was a slight language barrier. § 87(2)(b) did not say anything and looked at § 87(2)(b) then back at the officers. § 87(2)(b) appeared to understand what they were saying in English based on her actions later. § 87(2)(b) returned to the door and told the officers that nobody was there, but § 87(2)(b) § 87(2)(b) gestured by shaking her head and widening her eyes which PO Mahon interpreted as “yes.” § 87(2)(b) then motioned with her hand for the officers to enter. § 87(2)(b) spoke with a Spanish-speaking uniformed officer, but PO Mahon did not understand what was said and he was never informed of the conversation. PO Mahon pulled § 87(2)(b) out of the apartment, placed him in handcuffs, and then Sgt. Cavallaro and some of the uniformed officers entered the apartment.

The EVENT indicated that a female called 911 at approximately 12:08 p.m. and reported that a Hispanic female, who was with a black male, displayed a firearm and said, “You think I can’t shoot,” or “won’t shoot” (Board Review 16).

The UF61 report noted that the victim stated that § 87(2)(b) displayed a black firearm and stated, “You don’t think I’ll shoot you through the window” (Board Review 14).

According to DMV, § 87(2)(b) s most current address, from 2017, was listed as § 87(2)(b) § 87(2)(b) in the Bronx (Board Review 08).

Sgt. Paterno’s memo book noted that he conducted a directed patrol at § 87(2)(b) § 87(2)(b) at 1:00 p.m. and a female was stopped at 2:00 p.m. (Board Review 09). PO Mahon and Sgt. Cavallaro’s memo books did not record the time they went to § 87(2)(b) § 87(2)(b) (Board Review 10 and 11).

§ 87(2)(g)  
§ 87(2)(g)  
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§ 87(2)(g)  
§ 87(2)(g)

Under the emergency doctrine, warrantless entries by officers must (1) be on reasonable ground to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property; 2) the search is not primarily motivated by intent to arrest or seize evidence; and 3) there is some reasonable basis, approximating probable cause, to associate the emergency with the place to be searched, People v. DePaula, 179 A.D.2d 424 (1992) (Board Review 22).

Absent exigent circumstances, the police may not cross the entrance to a home to make a warrantless arrest, Payton v. New York, 445 U.S. 573 (1980) (Board Review 20). According to People v. McBride, 14 NY.3d 440, the following factors should be considered in determining whether exigency at the time of the arrest is at hand: (i) the gravity of crime with which a suspect will be charged, (ii) whether the suspect is reasonably believed to be armed, (iii) whether there is clear probable cause to arrest an individual, (iv) strong reason to believe that the suspect is within

premises to be entered, (v) likelihood of the prisoner's escape, (vi) and peaceful circumstances of entry (Board Review 19).

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

After PO Mahon placed his foot against the door, officers spoke with § 87(2)(b) [REDACTED]. It is in dispute whether or not Sgt. Cavallaro and PO Mahon immediately saw § 87(2)(b) [REDACTED] when § 87(2)(b) [REDACTED] opened the door § 87(2)(g) [REDACTED].

[REDACTED]



§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

**Allegation (B) Abuse of Authority: Sergeant Charles Cavallaro threatened to arrest** § 87(2)(b)

[REDACTED]

In his CCRB testimony, § 87(2)(b) stated that Sgt. Cavallaro told § 87(2)(b) that if he was lying about § 87(2)(b) not being home then he could be held for obstruction (Board Review 01). § 87(2)(b) repeatedly told the officers that § 87(2)(b) was not home and that, to his knowledge, no one else was inside the residence.

In his CCRB testimony, PO Mahon stated that § 87(2)(b) repeatedly refused to allow the officers to enter the apartment and Sgt. Cavallaro explained to § 87(2)(b) that he would be arrested for “obstruction” if he did not allow them inside because he did not live there and they had to go in for the safety of other potential occupants (Board Review 07). In his CCRB testimony, Sgt. Cavallaro stated that § 87(2)(b) could have been charged with obstructing governmental administration because he suspected that § 87(2)(b) was hiding someone with a gun and he lied about being alone in the apartment once they saw § 87(2)(b) but he did not recall if he told this to § 87(2)(b) (Board Review 06). Sgt. Cavallaro stated that § 87(2)(b) was not suspected of any additional crimes.

According to Sgt. Paterno’s testimony, he was not present during the conversation between Sgt. Cavallaro and § 87(2)(b) (Board Review 05).

It is undisputed that the officers were at the location in an attempt to enter the residence to investigate § 87(2)(b) waving a firearm during an earlier incident, but § 87(2)(b) refused to let the officers enter the residence. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, NYS Penal Law §195.06 (Board Review 24).

§ 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Mahon detained § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Mahon frisked § 87(2)(b)**

**Allegation (E) Abuse of Authority: Police Officer Mahon searched § 87(2)(b)**

In his CCRB testimony, § 87(2)(b) stated that at some point during his conversation with the officers, § 87(2)(b) walked away from the door and went into his bedroom (Board Review 01). § 87(2)(b) returned to the door after he saw § 87(2)(b) speaking with the officers. At the door, § 87(2)(b) continued to tell the officers that § 87(2)(b) was not present, he did not know if anyone else was home, and that they could not come in. PO Mahon subsequently pulled § 87(2)(b) out of his home, took him outside of the building, and an officer placed him in handcuffs. PO Mahon patted down § 87(2)(b) removed his wallet, and took his ID out. While § 87(2)(b) was outside, officers brought § 87(2)(b) out of the building in handcuffs. § 87(2)(b) stated that § 87(2)(b) was § 87(2)(b)'s guest and that he did not know that § 87(2)(b) was inside the apartment because § 87(2)(b) never entered § 87(2)(b)'s bedroom.

In an unverified phone statement, § 87(2)(b) stated that the officers pointed a gun towards him and handcuffed him while he was inside the bedroom (Board Review 02).

In an unverified phone statement, § 87(2)(b) stated that she was taken to the stationhouse to sign some documents, but she did not recall what documents she signed (Board Review 03).

Given that § 87(2)(b) and § 87(2)(b) did not provide a statement and there was no paperwork generated regarding § 87(2)(b) or § 87(2)(b) allegations of detention and guns pointed have not been pleaded.

In his CCRB interview, PO Mahon stated that after Sgt. Cavallaro informed § 87(2)(b) that he would be arrested, § 87(2)(b) replied, "Fine arrest me" (Board Review 07). PO Mahon subsequently placed § 87(2)(b) in handcuffs to detain him for impeding an investigation regarding a firearm. PO Mahon stated that § 87(2)(b) was not being detained for any other reasons. Sgt. Cavallaro stated that § 87(2)(b) was being held for an investigation because they did not know what was going on inside the apartment (Board Review 06). PO Mahon patted down § 87(2)(b) because of the amount of time that he was gone from the doorway, the possibility of a

firearm in the apartment, and because he had to ensure that anyone who is in his custody does not have a weapon. PO Mahon did not see any bulges on § 87(2)(b) Sgt. Cavallaro recalled an officer patting down § 87(2)(b) for weapons, but he did not recall who did so. Sgt. Cavallaro stated that § 87(2)(b) could have been in possession of a firearm because § 87(2)(b) lived at the residence and they did not know if she was inside or if she came home at any point. Sgt. Cavallaro and PO Mahon both stated that the frisk yielded negative results for a weapon. PO Mahon denied searching § 87(2)(b) or removing a wallet from his pocket. Sgt. Cavallaro did not recall if any officers removed § 87(2)(b)'s wallet.

PO Mahon denied preparing any documentation in regards to this incident (Board Review 07).

When Sgt. Paterno initially saw § 87(2)(b) was already in handcuffs outside of the building and denied Sgt. Paterno denied seeing any officers frisk or search § 87(2)(b) (Board Review 05).

It is undisputed that § 87(2)(b) refused to allow the officers into the apartment and that § 87(2)(b) and § 87(2)(b) were inside. § 87(2)(g)

An officer may stop, detain, and question an individual if he or she has reasonable suspicion that the individual has committed, is committing, or is about to commit a crime, People v. Debour, 40 N.Y.2d 210 (1976) (Board Review 21). An officer may frisk an individual if he has reasonable suspicion that the person is armed and dangerous (Id.).

During a common law right of inquiry (level two encounter), providing innocuous answers or refusal to answer questions does not escalate the encounter, but providing false or inconsistent information may escalate the encounter, Patrol Guide Procedure 212-11 (Board Review 18).

§ 87(2)(g)

PO Mahon frisked § 87(2)(b) after he handcuffed him to ensure that § 87(2)(b) did not have a firearm on him. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Mahon has been a member of service for five years and has been a subject in six CCRB complaints and 10 allegations, none of which have been substantiated. § 87(2)(g)
- Sgt. Cavallaro has been a member of service for 13 years and has been a subject in 22 CCRB complaints and 58 allegations, of which 12 were substantiated:
  - 201607995 involved substantiated allegations of vehicle stops, vehicle searches, and a question against Sgt. Cavallaro. The Board recommended formalized training and the NYPD imposed the Board's recommendation.
  - 201703705 involved a substantiated allegation of a question against Sgt. Cavallaro. The Board recommended Command Discipline B and the NYPD imposed the Board's recommendation.
  - 201802098 involved substantiated allegations of a vehicle search and frisks against Sgt. Cavallaro. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
  - § 87(4-b), § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of March 1, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 23).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City (Board Review 12).

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date